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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,362	11/19/2003	Nai-Chen Lu	252011-1240	6698
47390	7590	11/01/2004	EXAMINER	
THOMAS, KAYDEN, HOSTEMEYER & RISLEY LLP 100 GALLERIA PARKWAY SUITE 1750 ATLANTA, GA 30339			WARREN, MATTHEW E	
		ART UNIT		PAPER NUMBER
				2815

DATE MAILED: 11/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/717,362	LU, NAI-CHEN
	Examiner Matthew E Warren	Art Unit 2815

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 19 November 2003.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-29 is/are pending in the application.  
 4a) Of the above claim(s) 1-13 and 29 is/are withdrawn from consideration.  
 5) Claim(s) 14-26 and 28 is/are allowed.  
 6) Claim(s) 27 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>11/19/03</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

**DETAILED ACTION**

***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 14-28, drawn to a semiconductor device, classified in class 257, subclass 532.
- II. Claims 1-13 and 29, drawn to a method of making a semiconductor, classified in class 438, subclass 1+.

The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the second metal layer could be formed by CVD instead of sputtering or the vibrating chamber could be formed without the dividing step.

During a telephone conversation with Daniel McClure on September 29, 2004 a provisional election was made without traverse to prosecute the invention of Group I, claims 14-28. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-13 and 29 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 27 is rejected under 35 U.S.C. 102(b) as being anticipated by Konotchick (US 5,818,132).

In re claim 27, Konotchick shows (figs. 2, 13A, and 13B) a power generator comprising a magnetic film (2A) suspended within a vibration chamber (1); first and second coils (5 and 6) disposed on opposing sides of the magnetic film, the first and second coils configured to generate induced currents resulting from a changing magnetic field of the magnetic film, resulting from vibrations; and an electricity storage device (78 in figs. 13A and 13B) electrically coupled to the first and second coils, the electricity storage device configured to store electrical energy delivered from induced currents in the first and second coils (col. 8, lines 15-67).

***Allowable Subject Matter***

Claims 14-26 and 28 are allowed.

The following is an examiner's statement of reasons for allowance: the prior art references, alone or in combination, do not show as recited in claims 14 and 28, a power generator comprising a magnetic film disposed between a first substrate and second substrate and located in a vibration chamber, a first metal layer disposed under

the first substrate and aligned with the vibration chamber and a second metal disposed on the second substrate and aligned with the vibration chamber, and an electricity storage device, electrically coupled to the first metal layer and the second metal layer. The closest prior art reference (Richards et al. US Pub. 2002/0043895 A1) shows a piezoelectric film disposed between a first substrate and a second substrate, wherein the first and second substrate define a vibration chamber.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Richards et al. (US Pub. 2002/0043895 A1), Fujii et al. (US Pub. 2003/0003618 A1), Pinkerton (US Pub 2003/0137220 A1), and Nakano et al. (US 2004/014623 A1) also disclose power generators that have vibration chambers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew E Warren whose telephone number is (571) 272-1737. The examiner can normally be reached on Mon-Thur and alternating Fri 9:00-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Thomas can be reached on (571) 272-1664. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MEW  
*MEW*  
October 15, 2004

*Tom* *Thomas*  
TOM THOMAS  
SUPPLY PATENT EXAMINER  
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